

Charles E. Lyons, II, V-76614
C.S.P. Solano (12-229)
P.O. Box, 4000
Vacaville, Ca. 95696

FILED

JUL 03 2008

Petitioner IN PRO SE

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

E-filing

(PR)

THE SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

CV 08

CRB
3205

Charles Edward Lyons, II,)
)
Petitioner,)
)
-vs-)
)
)
D.K. Sisto, Warden,)
a person having custody)
of petitioner)
Respondent.)
_____)

CASE No. _____

PETITION FOR WRIT OF HABEAS CORPS,
BRIEF AND EXHIBITS IN SUPPORT THEREOF

THE SUPERIOR COURT OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

Charles Edward Lyons, II,)
)
 Petitioner,)
)
 -vs-)
)
)
 D.K. Sisto, Warden,)
 a person having custody)
 of petitioner)
 Respondent.)
 _____)

CASE No. _____

NORTHERN DISTRICT APPROVED FORM

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
 3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
 4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
 5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
 7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
 8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
 9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
 13 County Superior Court, Oakland):

14 SANTA CLARA COUNTY SUPERIOR COURT 191 N. First St., San Jose, Ca. 95113

15 Court

Location

16 (b) Case number, if known CC440907

17 (c) Date and terms of sentence 4/21/05, 15 Years with 85%

18 (d) Are you now in custody serving this term? (Custody means being in jail, on
 19 parole or probation, etc.) Yes X No

20 Where?

21 Name of Institution: Solano State Prison

22 Address: C.S.P. Solano, P.O. Box, 4000, Vacaville, Ca. 95696

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
 24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
 25 challenging more than one sentence, you should file a different petition for each sentence.)

26 V.C. § 2800.3; P.C. § 236/237, w/ P.C. § 12022.7 & 1203, sub. (e)(3); V.C. § 23222(b)

27 the charge of P.C. § 207, and V.C. § 14601 were dismissed

1 petition? Yes X No

2 (c) Was there an opinion? Yes No X

3 (d) Did you seek permission to file a late appeal under Rule 31(a)?

4 Yes No

5 If you did, give the name of the court and the result:

6 _____
7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
9 this conviction in any court, state or federal? Yes X No

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: California Supreme Court

19 Type of Proceeding: Petition for Review

20 Grounds raised (Be brief but specific):

21 a. Please see Petition for Review pp. 7-17

22 b.

23 c.

24 d.

25 Result: denied Date of Result: 9/27/06

26 II. Name of Court: California Supreme Court

27 Type of Proceeding: Writ of Habeas Corpus

28 Grounds raised (Be brief but specific):

1 See Writ of Habeas Corpus pp. 3

2 b.

3 c.

4 d.

5 Result: denied Date of Result: 6/11/08

6 III. Name of Court:

7 Type of Proceeding:

8 Grounds raised (Be brief but specific):

9 a.

10 b.

11 c.

12 d.

13 Result: Date of Result:

14 IV. Name of Court:

15 Type of Proceeding:

16 Grounds raised (Be brief but specific):

17 a.

18 b.

19 c.

20 d.

21 Result: Date of Result:

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes No X

24 Name and location of court:

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to

27 support each claim. For example, what legal right or privilege were you denied? What happened?

28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: See Petition, pp. 8-9 Memorandum of P & A; See also Exhibit A.
6 for Review

7 Supporting Facts: Same as above
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11 Claim Two: See Writ of Habeas Corpus, PP. 3
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13 Supporting Facts: Same as above and Exhibits
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17 Claim Three: _____
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19 Supporting Facts: _____
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23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 On the advice of Appellate Layer
26
27
28

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 See iii of Petition for Review & PP.3 b, & 3 b
5
6

7 Do you have an attorney for this petition? Yes _____ No X

8 If you do, give the name and address of your attorney:
9

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on June 20, 2008

14 Date

Charles E. W.

Signature of Petitioner

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20 (Rev. 6/02)
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